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Attorney for Debtor

**UNITED STATES BANKRUPTCY COURT**

**DISTRICT OF NEVADA**

In Re:	)	BK-S-19-16636-MKN
	)	Chapter 11
CENSO LLC.	)	
	)	
	)	HEARING DATE: September 16, 2020
Debtor.	)	HEARING TIME: 9:30 AM
	)	

**REPLY TO RESPONSE TO MOTION FOR RELIEF FROM JUDGMENT  
 PURSUANT TO FRCP RULE 59 AND BANKRUPTCY RULE 9023**

The Debtor, CENSO LLC., by and through their counsel, COREY B. BECK, ESQ., of THE LAW OFFICE OF COREY B. BECK, P.C. respectfully files this Reply to Response to Motion from Judgment Pursuant to FRCP Rule 59 and Bankruptcy Rule 9023 as follows;

Debtor asserts there is debtor-creditor relationship. Debtor has asserted they have an “interest” and/or claim in the subject property. In particular, the U.S. Supreme Court found that there is “debtor-creditor relationship whenever a creditor holds a claim secured by the debtor’s property even if the debt has no personal liability” Johnson v. Home State Bank 111 S. Ct. 2150 U.S. Supreme Court (1991) quoted in In re Garcia 276 B.R. 627, 631 Bkcty. D. Arizona 2006.

In addition, there is local persuasive authority on this subject. In re Okosisi 451 B.R. 90 (Bankr. D. Nev 2011) examined whether second mortgage can be “stripped off” and avoided in Chapter 13 after debtor received Chapter 7 Discharge and was not eligible for Chapter 13 Discharge. Judge Markell found that the bank’s claim can be “stripped off” in Chapter 13 case, notwithstanding that there was not any personal liability on said debt. In case-at-bar, case is similar in that the debtor (Censo) is seeking to “cramdown” and reorganize said debt, notwithstanding the fact that debtor is not personally liable on debt. Okosisi is strong persuasive

1 authority in favor that stay should be reinstated in this case.

2 In Gracia 276 B.R. 627 Bkcty. D. Arizona (2006), the Arizona Bankruptcy Court allowed  
3 the debtor to cure arrears even though there was no contractual liability with the debtor. The  
4 Arizona Bankruptcy Court stated there is sufficient claim with the real property for debtor to  
5 reorganize in Chapter 13.

6 In re Carter, 2009 WL 5275399 U.S. BK Court SD Texas 2009 dealt with a Chapter 13  
7 case in which there was no personal liability on the mortgage by the debtor. Debtor had interest  
8 in property. Court found that creditor's claim was in rem against debtor's property and subject to  
9 inclusion within debtor's plan. These cases support that there is a basis to find debtor-creditor  
10 relationship even if contractual privity does not exist through contractual relationship.

11 Debtor has filed an amended Adversary Complaint against the bank. Debtor is asserting  
12 that claim is unsecured. In addition, Debtor is challenging validity of documentation to  
13 substantiate claim. Debtor served Michael Chen, Esq. We are serving parties to lawsuit directly.

14 Therefore, under these facts and circumstances of case, undersigned counsel submits  
15 there is sufficient "debtor-creditor" relationship as creditor has claim as to the property.  
16 Moreover, Censo is seeking to tender adequate protection payments while adversary action is  
17 pending.

18 **RELIEF REQUESTED**

- 19 1. Order Reconsidering July 17, 2020 Order Lifting Stay;  
20 2. Order reimposing stay conditioned on payment of adequate protection;  
21 3. All other relief the court deems appropriate.

22 DATED this 15<sup>th</sup> day of September, 2020.

23 Respectfully submitted,

24 /s/ COREY B. BECK  
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